

**(b)**  
**Petition**

Judge Yvonne M. Williams, JP1  
Travis County, Texas  
J1-CV-21-001436

NO. J1-CV-21-001436

KRISTINA KIPLING,	§	
<i>Plaintiff</i>	§	IN THE JUSTICE COURT
	§	
VS.	§	
	§	PRECINCT NO. 1
	§	
TD BANK NATIONAL	§	
ASSOCIATION,	§	
<i>Defendant</i>	§	TRAVIS COUNTY, TEXAS
	§	
	§	
	§	

**PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW PLAINTIFF Kristina Kipling ("Kipling"), and files this, her Original Petition, complaining of DEFENDANT TD Bank National Association ("TD Bank"), and for causes of action would respectfully show this Honorable Court the following:

**PARTIES**

Plaintiff Kristina Kipling is a resident of Bexar County, Texas.

Defendant TD Bank is a Maine corporation with a mailing address of PO Box 9540 Portland, ME 04112 according to the online records of the Texas Secretary of State.

Defendant TD Bank may be served via registered agent, United States Corporation Company, at 1201 Hays Street Tallahassee, FL 32301.

**VENUE AND JURISDICTION**

1. Venue is proper in this Court, pursuant to Tex. Civ. Prac. & Rem. Code §§ 15.038.
2. The amount in controversy is within the jurisdictional limits of this Court, i.e., \$20,000.00.

Judge Yvonne M. Williams, JP1  
Travis County, Texas  
J1-CV-21-001436

**FACTUAL ALLEGATIONS**

3. At all times relevant to this claim, Kipling was a “consumer” as that term is defined in the Texas Debt Collection Act (“TDCA”), Tex Fin. Code § 392.001(1).
4. At all times relevant to this claim, TD Bank was a “debt collector” as defined in the TDCA § 392.001(6).
5. The TDCA claims in this lawsuit arose from TD Bank’s deceptive and illegal attempts to collect on a consumer debt, account number 000605597, in the approximate amount of \$432.80 (the “alleged debt.”).
6. On or about October 2, 2020, Kipling disputed the alleged debt via fax and email at (+1 (612) 696-3399, trademark.info@target.com, and dmca@target.com).
7. On or about October 2, 2020, TD Bank knew or should have known that Kipling had disputed the alleged debt.
8. On or about October 6, 2020, TD Bank, replied to Kipling’s dispute by sending a letter stating TD Bank would not investigate Kipling’s dispute unless it was notarized.
9. TD Bank’s reply also falsely characterized Kipling’s dispute of the alleged debt as a power of attorney notification, without explanation, and did not even mention Kipling’s dispute of the alleged debt.
10. Furthermore, TD Bank failed to report the debt’s disputed status on Kipling’s Equifax, TransUnion, and Experian credit reports as of June 2021.

**CAUSES OF ACTION**

**COUNT I**

**VIOLATIONS OF THE TEXAS DEBT COLLECTION ACT**  
**(“TDCA”), TEX. FIN. CODE. §392 *et seq.***

Judge Yvonne M. Williams, JP1  
Travis County, Texas  
J1-CV-21-001436

11. Kipling incorporates the preceding paragraphs as if set forth at length.
12. TD Bank violated the TDCA § 392.301(a)(3) by representing to Experian, Equifax, and TransUnion that Plaintiff is willfully refusing to pay the alleged debt when the alleged debt is in dispute and Plaintiff had notified TD Bank of the dispute.
13. TD Bank violated the TDCA § 392.202 by failing to conduct an investigation into Kipling's dispute and failing to provide her with written results of that investigation within 30 days as required by the statute.
14. As a result of TD Bank's violations of the TDCA § 392.301(a)(3), Kipling is entitled to an order directing TD Bank to permanently cease collection on the alleged debt, pursuant to TDCA § 392.403(a)(1); statutory damages of **no less** than \$100.00, pursuant to the TDCA § 392.403(e); actual damages; and attorney fees pursuant to the TDCA § 392.403(c).

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Kristina Kipling prays that this Court:

- a. award Kipling statutory damages of **no less than \$100.00** and up to \$1,000.00; actual damages according to proof plus attorney fees and costs of court, per the TDCA §§ 392.403(c),(e);
- b. award Kipling any other relief to which this Court may find her entitled in law or in equity.

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Judge Yvonne M. Williams, JP1  
Travis County, Texas  
J1-CV-21-001436

Respectfully Submitted,

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/s/ Robert Zimmer  
By: Robert Zimmer  
State Bar No. 24098662

**ATTORNEY FOR PLAINTIFF,  
KRISTINA KIPLING**